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Mar. 31

Mr. James J. Barry, Commissioner
Department of Public Welfare
State House Annex

Dear Sir:

Reference is made to your letter of November 27, 1951. We have no record of this letter in our office; however, Mr. Thompson has furnished us a copy, and we now make reply.

You have asked whether a person residing by choice in a public institution may acquire a settlement.

By statute, settlement requires domicile for a period of five years. A legal domicile is acquired by the following:

1. Residence (bodily presence)
2. With the intent to remain;
3. For an indefinite period;
4. With the intent to abandon the old domicile;
5. Not under compulsion or restraint.

17 AM JUR. DOMICILE, s. 16

If the five requirements listed above are satisfied, then the person would be domiciled in the town or city where the institution is located.

Settlement depends on domicile, and under chapter 123, s. 1, IX, any person over 21 years of age who has had his domicile in any town in the state for a period of five consecutive years, shall thereby gain a settlement in such town.

Under section 7, of chapter 123, no person shall have a home for the purpose of gaining a settlement while assisted as a pauper. Therefore it would seem that regardless of whether a person enters a public institution voluntarily, if he is being supported as a pauper, he may gain a domicile but not a settlement.

COPY

Mr. James J. Barry

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The term "by choice," may mean that the person is paying his own way in the institution. If this is so, then section 7 would not apply, and if the requirements for domicile and settlement are met, then such person has gained his settlement in the town or city where the institution is located.

In relation to the person who is self-supporting and later requires support, section 8, of chapter 125 states that any person who shall become a pauper or public charge while at a public institution, or within three months after leaving such institution, shall be chargeable for support to the county in which he last resided before entering such institution, unless such person has a settlement in some town, or some other county is liable for his support. Therefore, in your hypothetical case, if the self-supporting person had gained a settlement before requiring aid, then the responsibility for his care would rest on the town of his settlement.

As all questions relating to the acquisition of a settlement depend upon an application of the facts of a particular case to the law, it is usually impossible to definitely state just where a person's settlement is without the complete factual situation. In this regard, if the above is not sufficient to answer your questions, then perhaps a specific case submitted to this office could be applied to the law as outlined above, and a definite answer given.

Very truly yours,

Warren E. Waters
Assistant Attorney General

WEW:RM